

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRENDA M. JOHNSON,

Plaintiff,

v.

TACOMA POLICE, *et al.*,

Defendants.

CASE NO. C20-5548 RJB

ORDER AFFIRMING ORDER DENYING
AND REFERRING MOTION TO RECUSE

This matter is before the Court on Plaintiff's October 30, 2020 motion. Dkt. #12. That motion requested that United States District Court Judge Robert J. Bryan recuse himself from this closed case. *Id.* Judge Bryan denied the motion and referred it to the undersigned for review. *See* W.D. Wash. Local Rules LCR 3(f). Having reviewed the motion and the record, Judge Bryan's order is affirmed.

Plaintiff filed this action June 8, 2020 without paying the filing fee or applying to proceed in forma pauperis. Dkt. #1. After Plaintiff filed an application to proceed in forma pauperis under 28 U.S.C. § 1915, Plaintiff's complaint underwent prefiling review by United States Magistrate Judge J. Richard Creatura who determined that the complaint failed to adequately state a claim. Dkt. #7. Magistrate Judge Creatura directed Plaintiff to file an amended complaint on or before August 24, 2020. *Id.* at 11. When Plaintiff failed to file an amended complaint,

1 Magistrate Judge Creatura recommended that Plaintiff's action be dismissed. Dkt. #8. Plaintiff
2 failed to object to this recommendation, and, on October 5, 2020, Judge Bryan adopted the report
3 and recommendation and dismissed the matter. Dkt. #9.

4 On October 9, 2020—after the matter had been dismissed and closed—Plaintiff filed a
5 Motion for Entry of Default Judgement as to certain defendants. Dkt. #10. On October 30, 2020,
6 Plaintiff filed objections to Judge Creatura's report and recommendation as well as the pending
7 motion for voluntary recusal. Dkts. #11 and #12. Plaintiff has not sought relief from Judge
8 Bryan's order adopting the report and recommendation and dismissing the action.

9 A "judge of the United States shall disqualify himself in any proceeding in which his
10 impartiality might reasonably be questioned." 28 U.S.C. § 455(a); *see also* 28 U.S.C. § 144.
11 This includes circumstances where the judge has "a personal bias or prejudice concerning a party,
12 or personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C.
13 § 455(b)(1). Recusal is appropriate if "a reasonable person with knowledge of all the facts would
14 conclude that the judge's impartiality might reasonably be questioned." *Yagman v. Republic*
15 *Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with
16 whether there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*,
17 923 F.2d 731, 734 (9th Cir. 1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

18 Plaintiff's argument for recusal is difficult to discern. Plaintiff complains that Judge
19 "Bryan [is] administering a judgement [sic] without a contract with the United States of America"
20 and seems to allege that Judge Bryan is part of some vague conspiracy against her interests. Dkt.
21 #12 at 2. However, the clear thrust of Plaintiff's argument is that she disagrees with the resolution
22 of her case before Judge Bryan. But Judge Bryan's actions within the confines of this case do
23 not establish bias. *See Taylor v. Regents of Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) ("To
24 warrant recusal, judicial bias must stem from an extrajudicial source."). "[A] judge's prior

1 adverse ruling is not sufficient cause for recusal.” *United States v. Studley*, 783 F.2d 934, 939
2 (9th Cir. 1986). If Plaintiff believes that Judge Bryan’s actions are not in accordance with the
3 law, she may pursue appropriate remedies. But the legal errors she presumes were committed
4 do not establish prejudice such that Judge Bryan should recuse himself from this matter.

5 Accordingly, and for the reasons set forth above, the Court finds and ORDERS that Judge
6 Bryan’s order declining to disqualify himself (Dkt. #13) is AFFIRMED.

7 DATED this 2nd day of December, 2020.

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10 RICARDO S. MARTINEZ
11 CHIEF UNITED STATES DISTRICT JUDGE
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